

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairperson Ruth Teichman at 9:30 a.m. on February 24, 2004 in Room 234-N of the Capitol.

All members were present.

Committee staff present:

Bill Wolff, Legislative Research
Ken Wilke, Revisor Statutes Office
Nancy Shaughnessy, Committee Secretary

Conferees appearing before the committee:

Whitney Damron, KS. Payday Loan Assoc.
Bud Burke, Comm. Financial Serv. Assoc.
Kevin Glendening, State Banking Commission
Pat Leonard, Pres. KS. Payday Loan Assoc.
Malinda Lewis, El Centro
Jarrod Forbes, Kansas Insurance Department
Bill Sneed, State Farm Insurance

Others attending:

See Attached List.

The Chair asked for a motion to approve the minutes from Feb. 3rd, 4th and 5th, Senator Brungardt moved, Senator Barnett seconded. Motion passed.

The Chair opened the hearing for **SB 439--Uniform Consumer Credit Code; providing for maximum amount and flat fee for payday loans.**

Whitney Damron, spoke as a proponent of the bill. (Attachment 1) Two changes to current payday loan statutes: 1) Reduce the maximum loan from \$860 per transaction to \$500 and 2) eliminate the stair-stepped cap on payday loans and replace it with a flat rate maximum of \$15.00 per \$100 loaned. The purpose of this change is to provide access to loans that are being requested by the consumer, but which are either not being made available due to increased risk of losses or are being provided through multiple payday lenders or fee-splitting by single payday loan licenses.

Senator Teichman inquired about Mr. Damron's comment regarding **HB 2685--Payday loans, concerning the regulation thereof.** She wanted to know why the provisions put in the Senate bill were not in the House Bill. Mr. Damron replied that the house bill was the State Bank Commissioner's bill and that the Payday Loan Assoc. had met with Mr. Glendening on the possibility of seeking an amendment, while not objecting to the rate issue, the banking commission feels it is a policy issue for the legislature and not their position to make those requests.

Senator Barnett questioned the concern of the Association that one of the issues was that consumers could not access enough money on a loan, yet they are asking that the max loan be reduced from \$860 to \$500.

Mr. Damron replied that the loans are designed to help people get from one payday to the next and it's a rarity that larger amounts are required.

Bud Burke, testified as a proponent of **SB439**. His purpose in testifying was to educate the committee regarding the purpose of the Payday Loan Association. (Attachment 2)

Senator Teichman asked about how the industry is regulated? The bank Commission's office is in charge of regulating the industry.

Senator Barnett wanted to better understand the math and asked questions about the borrowing fees in current law and in the new request. In current law \$15 would be the charge for a \$100 loan. If a customer

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borrowers \$300, **SB439** would propose a \$45 fee. Is there a trend in the business that more and more people are coming in for the increased loan amounts?

Mr Burke responded that \$100 was proving to not be sufficient for a person who needed a car repair, etc. The customer who is being loaned a \$100 only, because it is not profitable for the lender to do more, is going to other stores and borrowing like amounts.

Kevin Glendening, State Banking Commissioner's office appeared as a neutral conferee providing information on the industry. (Attachment 3) The number of payday lending operations has increased 1200% in the last ten years.

Pat Leonard, President of the Ks. Payday Loan Assoc. and represents approximately 25 % of the stores within the State. Mr. Leonard is happy with the laws in Kansas which prevent the loans from rolling over and creating a circle of debt for customers. He outlined the rate fees in surrounding states.

Senator Teichman questioned Mr. Damron on what appears to be adversarial to the consumer, based on the fee rates being proposed.

Mr. Damron agreed that the percentage rates looked excessive based on annual rates, but they are generally very short term loans to resolve immediate problems for which consumers have little or no alternatives to solve problems.

Senator Barnett invited Malinda Lewis of El Centro, Inc. to comment on thoughts she might have from the consumer standpoint. She testified that they do not believe that the industry be put out of business, but would like it noted that the Association only represents 25% of the industry and that concerns them about what the other 75% are doing.

The Chair closed the hearing on **SB439**.

The Chair then stated that there were two bills that she wished to work which had been previously discussed. The first one being **SB509—Credit service organizations, inclusion of debt management services**. The bill is not controversial and only needed to have some language changes due to some duplication. On pg. 6 line 23 the language referring to *any customer or related interest* is a duplication of language in the previous sub-section and will be deleted. On pg. 14 in line 3 after Attorney General *the county or district attorney will be included as those who can bring an action*. In line 18, after the word organization, the phrase *under the Kansas Credit Service Organization* is a doublet and will be deleted..

Senator Adkins made a motion to accept the bill with changes indicated. Senator Steineger seconded. Motion passed.

The Chair then asked for a motion to re-consider **SB 347—Prohibiting counting an insurance related inquiry as an insurance claim**

Senator Buhler made a motion to reconsider the bill. Senator Steineger seconded. Motion passed.

Senator Teichman, because of the closeness of the vote, asked the industry reps and the KID to meet and determine if they could come any closer on acceptable language to both. She asked for the two groups to report back to the committee.

Jarrod Forbes, Kansas Insurance Department, stated that the Commissioner has been willing to discuss terms and make some technical changes. She is not willing to bend on the collection of the information which is being used against consumers. She is standing firm on how that information is being used and believes that it is not in the best interest of the consumer.

The Chair asked that the Technical amendments be specified. Mr. Forbes indicated that they are open to change in the term consumer to insured. The Chair continued to question the conferee about specific

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amendments.

Senator Helgerson asked if the groups had met and if they had any kind of written information to submit to the Committee.

Mr. Forbes responded that the central issue was not going to change for either group and that the minor technical amendments had not been brought to the Committee.

Senator Buhler asked the Chair if she intended to make the same inquiries of the Industry reps.

She responded that she did..

Bill Sneed of State Farm Insurance testified that the industry reps had made several attempts to continue working on language with the KID. The Department had made as many changes as possible and was not going to change their position on the reporting of information. He also stated that the bill was flawed from a technical point in that there are no definitions. It is a poorly drafted bill and the industry reps have no need to fix the Department's bill for them.

The Chair then asked Mr. Sneed to enlighten the Committee again regarding the changes in the information that the industry is wanting.

Mr. Sneed, speaking for State Farm only indicated that in his testimony he had defined inquiry, defined consumer reporting agency, and defined what could or could not be done with an inquiry.

The Chair then declared her intention to ask for the question again to determine what the desire of the Committee was on the Bill.

Senator Adkins made a motion to amend language from consumer to insured and report the bill out favorably. Senator Steineger seconded. Motion passes.

Senator Barnett stated that he would like to see some compromise and can see both sides of the situation and would like to offer a substitute motion.

Line 15 of the bill and starting with B) *consumer reporting agency means any person who for monetary fees, dues or on a cooperative nonprofit basis regularly engages in full or in part in the practice of assembling or evaluating information on consumers for the purpose of furnishing consumer reports to third party.* And the amendment would add C) *an insured under a homeowner insurance policy, no inquiry on any property real or personal shall be adversely reported by an insurer to a consumer reporting agency unless and until such inquiry constitutes a formal claim filed by the insurer, not the consumer.* An additional line would add: *and such inquiry is not related to any property or liability loss and no damages have occurred to the insured property. Nothing in this act should be construed to prohibit or otherwise restrict the insured from reporting information to any regulatory agencies, law enforcement or fraud reporting agencies as otherwise allowed by law.*

Senator Barnett stated that this was a compromise position may not be perfect but if it can work through the process and move the bill out he would like to see it accepted. He is more comfortable with the substitute motion than the current language.

Senator Buhler seconded the substitute motion.

Senator Adkins stated that this substitute was a compromise in name only and completely guts the bill. The point of the bill is for me to be able to call my insurance agent and ask about a possible claim. What concerns him is that an inquiry will result in an insured person being penalized as having an adverse report that will affect their ability to insure should they choose to self-insure that particular loss. This substitute requires policyholders to be made liars when they call their agents and he thinks that is a relationship that should be protected and agents and policyholders should be encouraged to talk about this issue. Senator Atkins feels that the Committee should take a strong position as it comes out of the Senate knowing that

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the bill will be watered down eventually. And if the strongest position is not taken out of Committee this bill will eventually be gutted. The fact that the insurance industry and Commissioner can't reach a compromise is okay and somewhere the consumer has to be considered. The industry cannot always have their way.

Senator Steineger added that he concurs with Senator Atkins comments and knows that the bill will have many more hoops to go through and will be watered down.

Senate Buhler wanted to clarify that everyone needs to keep in mind that the agent is not working for anyone other than the company he represents and the policyholder might not always be his/her primary concern.

The chair then asked for a vote on the substitute motion. Motion fails.

Back on the original motion to move the bill out favorably with the amendment to offer to substitute the word consumer for insured. Chairperson called the question and then asked for a vote, as the chair was in doubt. Three in favor of moving the bill out,(Senators Adkins, Steineger and Helgerson) five opposed(Senators Buhler,Corbin,Barnett,Brungardt,and Salmans) to moving the bill out. The motion fails.

Meeting adjourned at 10:40 a.m.

Next Meeting scheduled for March 2, 2004

SENATE FINANCIAL INSTITUTIONS & INSURANCE

Date: 2-24-04

Name:

Representing:

[Signature]

KID

Kevin Glendening

Office of the SEC Commissioner

Danny Kapat

"

Bill Sneed

State Farm

Christine Giebor

Federuco Consulting

Mike Mongan

Payday Plus Inc

Karla Mongan

Payday Plus Inc

Eric Banker

QC Financial Services

Bill L

AMERICAN PAYDAY LOANS

Twylla Leonard

CASH ADVANCE

Brad Smart

AIA

Lee Wright

FARMERS INS

Kathy Olsen

Ks Bankers Assn.

Shari Weber

Community Bankers Assn of Ks

David Hanson

Ks Insur Assn

Whitney Jauron

KS Payday Loan Assn.

Rennie Ann Power

KS Governmental Consulting

Natalie Haag

Security Benefit

Tom Cochran

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TESTIMONY

TO: The Honorable Ruth Teichman, Chair
And Members Of The
Senate Committee On Financial Institutions And Insurance

FROM: Whitney Damron
On Behalf Of The
Kansas Payday Loan Association

RE: SB 439 – An Act Concerning Payday Loans

DATE: February 24, 2004

Good Morning Madam Chair Teichman and Members of the Committee. I am Whitney Damron and I appear before you this morning in support of SB 439 on behalf of the Kansas Payday Loan Association. There are approximately 200 payday store licensees in our state and the members of the KPLA comprise ownership of approximately 20-25 percent of the stores. With me today are several payday loan store licensees, including Mr. Pat Leonard of Paola, Kansas who serves as President of the Association and Mr. Bill Banker of QC Financial Services, a payday licensee with stores throughout the country, with its corporate headquarters in Kansas City, Kansas.

SB 439 makes two changes to current payday loan statutes:

1. Reduce the maximum loan from \$860.00 per transaction to \$500.00; and,
2. Eliminate the stair-stepped cap on payday loans and replace it with a flat rate maximum of \$15.00 per \$100.00 loaned.

The purpose for this change is to provide access to loans that are being requested by the consumer, but which are either not being made available due to increased risk of losses or are being provided through multiple payday lenders or fee-splitting by single payday loan licensees.

With current loss ratios of payday loan stores, compounded by the fact that payday loans are not recoverable under bad check statutes, it is simply not cost-effective for stores to loan more than \$100.00 to consumers in most instances. Certainly there are cases where larger loans are being made, but for the most part, payday loan stores limit loans to \$100.00 per person.

Senate FI & I Committee

Meeting Date: FEB 24 2004

Attachment No.: 1

As a result, consumers that find themselves in need of more than \$100.00 have to obtain loans from multiple payday licensees or simply must do without these needed funds. In instances where multiple loans are made to an individual from stores of a common ownership or multiple loans are made to an individual from a single store, this is called "loan splitting" and generally illegal under Kansas law (more than 2 loans in a single 30 day period).

These limits in current law were created when these statutes were enacted in 1993. Rates have not been increased or amended since that time. Nor has the intent of payday loans, which was recognized in the Kansas Comment to this statute, dated 1995, which says in part:

"Payday loans are designed to tie the consumer over until his or her next payday. Thus, they are normally for a term of one or two weeks and are for small dollar amount."

The Kansas Comment goes on to note, *"Payday loans meet a legitimate credit need for many consumers."*

Consumers utilize the services of payday lenders, just like other lenders, to meet their own needs for credit. Consumers make decisions to borrow money based upon the alternatives they have available to them. While the cost of a payday loan may seem expensive to many of us in this room, fees charged may be relatively insignificant when compared to the cost of a bounced check when fees of a merchant, the bank and a check processing company are added together. Fees, penalties and consequences of late rent payments, auto repairs needed for employment and other unanticipated expenses make payday loans a needed service in our state.

The State of Kansas has a duty to implement laws to protect consumers from predatory lending practices. Payday loan statutes are a fair balance between a consumer's need for a short term loan and the public's interest in regulating fees. But keep in mind consumers are currently not always able to obtain the money they need for cash flow emergencies.

Kansas has a good payday loan statutes: We do not permit "loan splitting", we do not permit rollovers, our loan limits are relatively low and this bill would bring them down even more. And, perhaps most importantly, current rates are at the very lowest allowed in the country and the increase proposed in SB 439 would continue to make the maximum allowable loan rates among the lowest in the country.

Furthermore, this Committee may hear HB 2685 introduced by the Office of the State Bank Commission after the House of Origin deadline has passed. That bill would also reduce the maximum loan amount to \$500.00 and make other consumer-oriented changes to the payday loan statutes, including implementation of a 24 hour right of rescission, delineation of specific cancellation language on the back of a check and make changes to agency relationships. The Kansas Payday Loan Association has been supportive of that legislation and has long had a good working relationship with the office of the State Bank Commission.

In closing, I would respectfully ask the Committee to consider if payday loan stores are not allowed to make these kinds of loan in a cost-effective manner, where will consumers find these funds? Not from banks, saving and loans, credit unions or other traditional lenders. Reasonable lending options for consumers are an important part of our economy and many individuals' access to their basic needs.

On behalf of the KPLA, I thank you for your time today and would be pleased to stand for questions, as would Mr. Leonard and Mr. Banker.

Attachments:

- K.S. A. 16a.-2-404 + Kansas Comment 1995 and 2000.
- Payday Loan Statutes from Other States.

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16a-2-404

Chapter 16a.--CONSUMER CREDIT CODE PART I.--SHORT TITLE, CONSTRUCTION, GENERAL PROVISIONS Part 4 Consumer Loans; Maximum Finance Charges Article 2.--FINANCE CHARGES AND RELATED PROVISIONS

16a-2-404. Payday loans; finance charges. (1) On consumer loan transactions in which cash is advanced:

- (a) With a short term,
- (b) a single payment repayment is anticipated, and
- (c) such cash advance is equal to or less than \$860, a licensed or supervised lender may charge in lieu of the loan finance charges specified in K.S.A. 16a-2-401, and amendments thereto, the following amounts:
 - (i) On any amount up to and including \$50, a charge of \$5.50 may be added;
 - (ii) on amounts in excess of \$50, but not more than \$100, a charge may be added equal to 10% of the loan proceeds plus a \$5 administrative fee;
 - (iii) on amounts in excess of \$100, but not more than \$250 a charge may be added equal to 7% of the loan proceeds with a minimum of \$10 plus a \$5 administrative fee;
 - (iv) for amounts in excess of \$250 and not greater than the maximum defined in this section, a charge may be added equal to 6% of the loan proceeds with a minimum of \$17.50 plus a \$5 administrative fee.
- (2) The maximum term of any loan made under this section shall be 30 days.
- (3) A lender and related interest shall not have more than two loans made under this section outstanding to the same borrower at any one time.
- (4) Each loan agreement made under this section shall contain the following notice in at least 10 point bold face type: NOTICE TO BORROWER: KANSAS LAW PROHIBITS THIS LENDER AND THEIR RELATED INTEREST FROM HAVING MORE THAN TWO LOANS OUTSTANDING TO YOU AT ANY ONE TIME. A LENDER CANNOT DIVIDE THE AMOUNT YOU WANT TO BORROW INTO MULTIPLE LOANS IN ORDER TO INCREASE THE FEES YOU PAY.
- (5) The contract rate of any loan made under this section shall not be more than 3% per month of the loan proceeds after the maturity date. No insurance charges or any other charges of any nature whatsoever shall be permitted, except as stated in subsection (7), including any charges for cashing the loan proceeds if they are given in check form.
- (6) Any loan made under this section shall not be repaid by proceeds of another loan made under this

section by the same lender or related interest. The proceeds from any loan made under this section shall not be applied to any other loan from the same lender or related interest.

(7) On a consumer loan transaction in which cash is advanced in exchange for a personal check, a return check charge may be charged if the check is deemed insufficient as defined in paragraph (e) of subsection (1) of K.S.A. 16a-2-501, and amendments thereto.

(8) In determining whether a consumer loan transaction made under the provisions of this section is unconscionable conduct under K.S.A. 16a-5-108, and amendments thereto, consideration shall be given, among other factors, to:

- (a) The ability of the borrower to repay within the terms of the loan made under this section; or
- (b) the original request of the borrower for amount and term of the loan are within the limitations under this section.
- (9) This section shall be supplemental to and a part of the uniform consumer credit code.

History: L. 1993, ch. 75, § 1; L. 1999, ch. 107, § 20; L. 2001, ch. 50, § 1; Apr. 5.
Kansas Comment, 1995

1. This section, which is not part of the uniform act, was adopted in 1993 primarily in response to the development of so-called "payday loans." Payday loans are designed to tie the consumer over until his or her next payday. Thus, they normally are for a term of one or two weeks and are for small dollar amounts. These loans take many forms, with some involving the up-front exchange of the consumer's personal check (which may or may not be post-dated) for a discounted amount of cash and others involving the purchase of discount coupons for merchandise from a particular catalog. Payday loans meet a legitimate credit need for many consumers. At the same time, they are ripe for abuse. As a result, the administrator suggested legislation to fill the gaps in the U3C relating to such loans, and this section is the result.

2. Subsection (1) sets special high-limit rate ceilings for payday loans. Several requirements must be met to take advantage of the special rate ceilings. First, the creditor must be a licensed or supervised lender. Second, the loan must have a "short term"—less than 30 days. See subsection (2). Third, the parties must anticipate that the loan will be repaid in a single payment. What happens if the consumer is unable to make the payment and wants to work out a payment schedule? This issue is not addressed but, presumably, such a workout would be permissible so long as it was truly unanticipated when the loan was originated. Fourth, the cash advance cannot exceed the dollar amount of the first tier for blended rate supervised loans under K.S.A. 16a-2-401. That amount is subject to adjustment, see Kansas comment to K.S.A. 16a-2-401a and, as of July 1, 1995, is \$780. If all of these requirements are met, then the lender may charge the special rates authorized by this section.

3. Creditors should remember that their ability to impose the special rates authorized by this section does not exempt them from the other provisions of the U3C or the disclosure requirements of the CCPA. As a result, the special rates authorized by this section will need to be converted into rather high annual percentage rates for pre-transaction disclosure to the consumer.

4. Other than a return check charge for a personal check given by the consumer in exchange for cash, subsection (3) prohibits other charges of any type from being imposed in connection with a payday loan. This includes insurance charges, charges for cashing a check representing the loan proceeds and, presumably, collection and/or attorney fees now permitted by K.S.A. 16a-2-507.

5. Although not expressly stated, subsection (3) appears to permit the creditor to contract for interest if the loan is not repaid at maturity. This is the clear import of subsection (3), which limits the contract rate to 3% per month of the loan proceeds after the maturity date.

6. Subsection (4) prohibits "snowballing"—the practice of repaying one payday loan with the proceeds of another payday loan from the same lender or a related interest. See K.S.A. 16a-1-301(30).

Kansas Comment, 2000

1. This section, which is not part of the uniform act, was adopted in 1993 primarily in response to the development of the so-called "payday loan" industry. Payday loans are designed to tide the consumer over until his or her next payday. Thus, they normally are for a term of one or two weeks and are for small dollar amounts. These loans take many forms, with some involving the up-front exchange of the consumer's personal check (which may or may not be post-dated) for a discounted amount of cash and others involving the purchase of discount coupons for merchandise from a particular catalog. Payday loans meet a legitimate credit need for many consumers. At the same time, they are ripe for abuse. As a result, the administrator suggested legislation to fill the gaps in the U3C relating to such loans, and this section is the result.

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6. Subsection (4) prohibits "snowballing" -- the practice of repaying one payday loan with the proceeds of another payday loan from the same lender or a related interest. See K.S.A. 16a-1-301(34).

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States that Regulate the Payday Advance Industry Updated as of 10/09/02	Permissible Fee Pursuant to State Statute	Business Designation of Licensee; Statutory Authority	Example of Fee on \$100 Advance	Maximum # of Rollovers Allowed	Mandated Cooling-Off Period between Transactions	Maximum Advance Amount	Minimum Term	Maximum Term	Check v. Cash	Other
Arizona	15% of face amount of check	Deferred Presentment Company; A.R.S. §6-1251 et seq.	\$17.65	3	None	\$500	5 days	None	Either	Sunset July 1, 2010; must post fees in English and Spanish; no criminal prosecution; customer must certify that he has only 1 transaction with industry
California	15% of face amount of check + one-time set-up fee of \$10	Check Cashier; §1789.37 et seq.	\$17.65	Not allowed	None	\$300	None	30 days	Either	SB 898 enrolled 9/6/02, effective date 3/1/2004 (includes bank/agent language re: licensure and restrictions on bank); No criminal prosecution
Colorado	20% on first \$300; 7.5% above \$300	Supervised Lender; Uniform Consumer Credit Code, C.R.S. §5-3.1-101 et seq.	\$20.00	1	None	\$500	None	40 days	Either	Right to rescind; bank/agent language (agent must be licensed and bank exempt from only part of Act)
Delaware	No cap	Licensed Lender; 5 Del. C. §2201 et seq.	No cap	No limit	None	\$500	None	59 days	Either	Right to Rescind; No criminal prosecution
District of Columbia	10% of face amount of check plus \$5-20 fee based upon the face amount of the check	Check Cashier; DC Code §26-301 et seq.	\$16.11	Not allowed	None	\$1,000	None	31 days	Either	
Florida	10% of amount of advance + \$5 verification fee on every transaction	Payment Instrument Issuer or Check Cashier with intent to engage in Deferred Presentment; § 560.401 et. Seq.	\$15.00	Not allowed	24 hours	\$500	7 days	31 days	Either (must give cash if requested)	Dept. of Banking operates industry-wide database; Credit counseling provisions; Right to rescind; No criminal prosecution
Hawaii	15% of face amount of check	Check Cashier; HRS §480F-1 et seq.	\$17.65	Not allowed	None	\$300	None	31 days	Either	
Idaho	No cap	Regulated Lender; Idaho Credit Code § 28-41-101 et seq.	No cap	3	None	\$1,000	None	37 months if over \$300; 25 months if \$300 or less	Either	

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States that Regulate the Payday Advance Industry Updated as of 10/09/02	Permissible Fee Pursuant to State Statute	Business Designation of Licensee; Statutory Authority	Example of Fee on \$100 Advance	Maximum # of Rollovers Allowed	Mandated Cooling-Off Period between Transactions	Maximum Advance Amount	Minimum Term	Maximum Term	Check v. Cash	Other
Illinois Rules for 31 days or greater loans	No cap	Consumer Installment Loan 205 ILCS 670/1 <i>et seq.</i>	No cap	No Limit	None	\$25,000	None	181 months	Either	No criminal prosecution
Illinois Short-term lending rules for 30 days or less loans	No cap	Consumer Installment Loan 205 ILCS 670/1 <i>et seq.</i>	No cap	2 plus each rollover must be 20% less than previous amount	15 days	\$400	None	30 days	Either	Consumer education brochure; No criminal prosecution
Indiana	15% on first \$100, 10% on amount over \$100 (not to exceed \$35)	Lender offering small loans; IC §24-4.5-7-101 <i>et seq.</i>	\$15.00	4 (after the first rollover each subseq. rollover must be 25% less)	After initial plus three consecutive transactions must wait 7 days; after fourth rollover is paid, must wait 30 days	\$400 (industry-wide—can rely on customer's representation and lender's records); cannot exceed 20% of monthly net income, including fees	14 days	None	Either	Right to rescind; Rollovers require handwritten note from customer
Iowa	\$15 on first \$100, \$10 per each \$100 thereafter (on face of check)	Delayed Deposit Services; IA Code §533D <i>et seq.</i> ; Iowa Consumer Credit Code 537	\$15.00	Not allowed	Next day if the total amount the customer repays plus the amount the customer wants advanced is greater than \$500	\$500	None	31 days	Either	
Kansas	\$0-50 = \$5.50; \$51-100=10% fee; \$101-250=7% (or \$10 min.); \$251-860=6% (or \$17.50 min.);for advance over \$50 can add \$5 admin. fee	Supervised Lender; UCCC K.S.A. §§16a-2-404	\$15.00	Not allowed	None	\$860	None	30 days	Either	
Kentucky	\$15 per \$100 advanced	Check Cashier; KRS §368.010 <i>et seq.</i>	\$15.00	Not allowed	None	\$500 (industry-wide—may rely on customer representation)	14 days	60 days	Either	No criminal prosecution

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States that Regulate the Payday Advance Industry Updated as of 10/09/02	Permissible Fee Pursuant to State Statute	Business Designation of Licensee; Statutory Authority	Example of Fee on \$100 Advance	Maximum # of Rollovers Allowed	Mandated Cooling-Off Period between Transactions	Maximum Advance Amount	Minimum Term	Maximum Term	Check v. Cash	Other
Louisiana	16.75% of face amount of check (\$45 max.)	Licensed Consumer Lender; Louisiana Deferred Presentment and Small Loan Act RS 9:3578.1 et seq.	\$20.12	rollover for lesser amount allowed if customer pays 25% of amount advanced plus fee	None	\$350	None	30 days	Either	No criminal prosecution
Minnesota	\$0-50=\$5.50; \$51-100=10% fee; \$101-250=7% (or \$10 min.); \$251-350=6% (or \$17.50 min.); Plus \$5 admin fee	Consumer Small Loan Lender; MN Stat. §47.60	\$15.00	Not allowed	None	\$350	None	30 days	Either	
Mississippi	18% of face amount of check	Check Cashier; MS Code §75-67-501 et seq.	\$21.95	Not allowed	None	\$400	None	30 days	Either	Sunset July 1, 2004
Missouri	total fees for initial loan and all renewals may not exceed 75% of initial loan amount	Small, Small Loan Company; RSMo §408.500 et seq.	total fees for initial loan and all renewals may not exceed 75% of initial loan amount	Up to 6 rollovers allowed (with 5% reduction each time)	None	\$500 (Industry wide-- may rely on customer representation)	14 days	31 days	Either	Customer must make written request for rollover; Right to rescind
Montana	25% of face amount of check	Deferred Deposit Lender; MCA §31-1-701 et seq.	\$33.33	Not allowed	None	\$300	None	31 days	Either	No criminal prosecution
Nebraska	\$15 per \$100 of face amount of check	Delayed Deposit Services; NE Stat. §45-901 et seq.	\$15.00	Not allowed	None	\$500	None	31 days	Cash	
Nevada	No cap	Deferred Deposit Service; NRS §604.010 et seq.	No cap	Not to extend more than 10 weeks after end of initial loan period	None	Cannot exceed 1/3 of customer's monthly net income	None	None	Either	No criminal prosecution
New Hampshire	No cap	Small Loan Lender; NHRS Chapter 399A	No cap	No Limit	None	\$10,000	No minimum	No maximum	Either	
New Mexico	No cap	Small Loan Business; NMSA §58-15-1 et seq.	No cap	No Limit	None	\$2,500	None	None	Cash	Consumer education brochure

States that Regulate the Payday Advance Industry Updated as of 10/09/02	Permissible Fee Pursuant to State Statute	Business Designation of Licensee; Statutory Authority	Example of Fee on \$100 Advance	Maximum # of Rollovers Allowed	Mandated Cooling-Off Period between Transactions	Maximum Advance Amount	Minimum Term	Maximum Term	Check v. Cash	Other
North Dakota	20% of advance amount	Deferred Presentment Services; ND Century Code §13-08-01 et seq.	\$20.00	1 (fee may not exceed 20% of amt of rollover; 15 day min. term)	3 business days	\$500 (Industry wide--may rely on customer's representation)	Term of rollover must be at least 15 days	30 days (term of original transaction plus one rollover may not exceed 45 days)	Either	No criminal prosecution; Customer notice required
Ohio	\$5 Loan Origination Fee per \$50 loaned; plus a fee of 5% of amount loaned per month (or fraction of a month)	Check Casher Making Loans; RC §§1315.21 et. seq.	\$15.00	Not allowed	Next business day	\$500	None	6 months	Either	
Oregon	No cap	Short-Term Personal Loan Business; ORS Chapter 725; OAR 441-730-000 et seq.	No cap	3	Next business day (following third rollover)	25% of monthly net income (for consumers with income of \$60,000 or less)	None	60 days	Either	
Rhode Island	10% of face amount of check or \$5 whichever is greater	Check Casher Engaging in Deferred Deposit Transactions; RI Stat. §19-14-1 et seq.	\$11.11	1	None	\$300	None	14 days	Cash	
South Carolina	15% of face amount of check	Deferred Presentment Services; SC Stat. §34-39-110 et seq.	\$17.65	Not allowed	None	\$300	None	31 days	Either	No criminal prosecution
South Dakota	No cap	Money Lender; SDCL §54-4-36	No cap	4	None	\$500	None	None	Either	
Tennessee	15% of face amount on check (\$30 cap)	Deferred Presentment; T.C.A. §45-17-101 et seq.	\$17.65	Not allowed	None	\$500 (Industry wide--can rely on customer's representation)	None	31 days	Either	No criminal prosecution
Utah	No cap	Check Casher Doing Deferred Deposit Loans; UT Code §7-23-101 et seq.	No cap	No rollover if it requires customer to pay amount owed more than 12 weeks from day on which first loan received	None	None	None	None	Either	

<i>States that Regulate the Payday Advance Industry Updated as of 10/09/02</i>	<i>Permissible Fee Pursuant to State Statute</i>	<i>Business Designation of Licensee; Statutory Authority</i>	<i>Example of Fee on \$100 Advance</i>	<i>Maximum # of Rollovers Allowed</i>	<i>Mandated Cooling-Off Period between Transactions</i>	<i>Maximum Advance Amount</i>	<i>Minimum Term</i>	<i>Maximum Term</i>	<i>Check v. Cash</i>	<i>Other</i>
Virginia	15% of advance amount	Payday Loan Act; VA Code, Title §6.1 –444 et seq.	\$15.00	Not allowed	None	\$500	7 days	None	Either	Right of rescission; arranging and brokering loans prohibited; warning Notice required; consumer education brochure; no criminal prosecution.
Washington	15% of advance amount	Check Casher with Small Loan Endorsement; RCW §31-45-010 et seq.	\$15.00	Not allowed	None	\$500	None	31 days	Either	
Wisconsin	No cap	Loan Company; WI ST §138.09	No cap	No Limit	None	None	None	None	Either	Must mail Notice to spouse of customer for every loan
Wyoming	\$30 or 20% per month on the principal balance (whichever is greater)	Post-dated Check Casher; WY UCCC §40-14-101 et seq.	\$20	Not allowed	None	None	None	1 calendar month	Either	

ISSUES



MANAGEMENT GROUP, INC.

TESTIMONY IN SUPPORT OF SB 439
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS
FEBRUARY 24, 2004

Madam Chair and Members of the Committee. My name is Bud Burke and I appear today on behalf of the Community Financial Services Association of America, (CFSA) the National Trade Group that represents the Payday Advance Industry nationwide. You can learn more about the National organization by looking at the enclosure "ABOUT THE INDUSTRY'S NATIONAL ASSOCIATION" or checking it out at www.cfsa.net.

When I was first approached about representing the Association I had a number of reservations as a result of my existing negative impression of the industry. I was asked if I could take the time to examine the independent research conducted by Georgetown University, PricewaterhouseCoopers and others before rushing to judgment. If you had the time to study this industry you would find, as I did, that it is a very valuable industry.

RESEARCH

I would ask you to pull out the enclosure on Research and glance over the results that found that 92% believe it's a useful service, 96% were aware of and reported the finance charge and could compare it with similar fees, that payday advances are competitive when compared to other means of obtaining small amounts of short-term credit.

INDUSTRY OVERVIEW

On this enclosure you will note that payday advance provides a small, unsecured, short-term cash advance until payday. The customer must be employed, have a checking account. The customer writes a personal check for the advance amount plus a fee and immediately receives the cash, minus the fee. At the end of the term of the loan, typically two weeks, the check is deposited or the customer returns with the cash to reclaim the check.

Why did this industry grow to what analysts estimate to be a \$25 billion dollar industry with over 15,000 locations across America? It is very simple, it is serving a missing link in the financial industry. (1) Traditional financial institutions exited the small-denomination, short-term credit market, largely due to its high cost structure according to the Federal Reserve and (2) the cost of bounced check fees, late payment penalties, and other short-term credit products soared.

Senate F I & I Committee

Meeting Date: FEB 24 2004

Attachment No.: 2

2009 Camelback Drive
Lawrence, Kansas 66047
(785) 749-5822 fax (785) 749-1502

800 SW
Tope
(785) 232-21

(2)

MEASURING THE COST OF A PAYDAY ADVANCE: FIXED FEE

You will hear from those who believe that the fees charged are outrageous, usury and unreasonable. Well, if you could get near prime rate from your bank for a small amount of short term money, you would not need this service but for those who need short term money to fix an automobile, pay the rent, avoid a utility disconnect or any number of situations that need a short term fix the payday advance is an option that makes sense. This enclosure compares the APR with the fees associated with overdrafts, bounced checks, utility late/disconnect fees and late fees on credit card balances. The statutory rates in Kansas have not been adjusted for the inflationary pressures since 1993 and because of the high risk and other costs associated with short term loans, it is not profitable for the industry to make loans in the \$300 to \$400 or more and the result is that when customers need a larger loan they must go down the street to another lender and still pay the same \$15 dollar fee for the first \$100 loan. Kansas remains one of the states with the lowest allowable fees.

CUSTOMER PROFILE

Are our customers ignorant, unemployed, uninformed people that are unable to make an intelligent decision about these short term loans. This enclosure describes our customers according to the Credit Research Center, McDonough School of Business, Georgetown University. As you will note they are middle-income, middle-educated, young families from a stable working class.

PAYDAY ADVANCE IN THE MEDIA

Finally, I would point out what some legislators from other States, some of the media and others have to say about our industry. As they point out, "for hard working families with checking accounts and steady incomes, this product can be a cost-effective alternative to bounced checks or late fees when an unexpected expense arises between paydays" And from the National Taxpayers Union, "Americans who have been ravaged by recession need more alternatives to get through these tough times, not fewer. Now more than ever, the misguided assault on payday loans should end."



KANSAS

OFFICE OF THE STATE BANK COMMISSIONER
CLARENCE W. NORRIS, Bank Commissioner

KATHLEEN SEBELIUS, GOVERNOR

Office of the State Bank Commissioner
Consumer & Mortgage Lending Division

Kansas Payday Loan Licensees

Companies must obtain a Supervised Loan License under the Uniform Consumer Credit Code to make payday loans to Kansas consumers.

At the close of 2003, 78 companies had a total of 204 locations licensed to make payday loans in Kansas. Nine of the 78 companies have an out-of-state administrative home office. Currently, three companies have pending license applications to conduct payday lending activity in Kansas.

The cities with the most payday licensed locations are Wichita with 33, followed by Topeka with 19 and Junction City with 12. The Kansas City, Kansas greater metropolitan area has 27 payday licensed locations.

For 2002, licensed payday lenders reported 667,317 loans made to Kansas consumers totaling \$102,790,061.00

Number of Kansas Payday Lender Locations licensed in each of the following years:

<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
17	26	36	53	67	89	103	107	115	121	204

Senate F I & I Committee

Meeting Date: FEB 24 2004

Attachment No.: 03

Current Law – K.S.A. 16a-2-404

<u>Amount Financed</u>	<u>Finance Charge</u>	<u>7 Day Loan APR</u>	<u>14 Day Loan APR</u>	<u>21 Day Loan APR</u>	<u>30 Day Loan APR</u>
\$100.00	\$15.00	782.14%	391.07%	260.17%	182.50%
200.00	19.00	495.36	247.68	165.12	115.58
300.00	23.00	399.76	199.98	133.25	93.28
400.00	29.00	378.04	189.02	126.01	88.21
500.00	35.00	365.00	182.50	121.67	85.17
600.00	41.00	356.31	178.15	118.77	83.14
700.00	47.00	350.10	175.05	116.70	81.69
800.00	53.00	345.45	172.72	115.15	80.60
860.00	56.60	343.17	171.59	114.39	80.07

Proposed @ Straight 15%

<u>Amount Financed</u>	<u>Finance Charge</u>	<u>7 Day Loan APR</u>	<u>14 Day Loan APR</u>	<u>21 Day Loan APR</u>	<u>30 Day Loan APR</u>
\$100.00	\$15.00	782.14%	391.07%	260.71%	182.50%
200.00	30.00	782.14	391.07	260.71	182.50
300.00	45.00	782.14	391.07	260.71	182.50
400.00	60.00	782.14	391.07	260.71	182.50
500.00	75.00	782.14	391.07	260.71	182.50
600.00	90.00	782.14	391.07	260.71	182.50
700.00	105.00	782.14	391.07	260.71	182.50
800.00	120.00	782.14	391.07	260.71	182.50
860.00	129.00	782.14	391.07	260.71	182.50